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ORIGINAL

EX PARTE OR LATE FILED

June 15, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20336

RE: **Ex Parte Presentation**
CC Docket No. 96-98
UNE Remand Proceeding

Dear Ms. Salas:

On June 15, 2000, Don Cain, Christopher Heimann, Steve Dyke and I met with Larry Strickling, Jared Carlson and Jake Jennings of the Common Carrier Bureau to discuss the Commission's reconsideration of its unbundled local switching requirement in the above reference docket. The attached served as a basis for our discussion. Please note that Footnote 13 to this attachment includes a correction to a substantially similar *ex parte* filed June 13, 2000.

Sincerely,

Gary L. Phillips

cc: Larry Strickling
Jared Carlson
Jake Jennnings
Chris Libertelli
Jonathon Reel
Michelle Carey

I. CLECs Switches and Collocation Arrangements are Concentrated in the top 100 MSAs and in some MSAs Outside the Top 100.

As shown in **Attachment A,** CLECs have deployed switches and obtained collocation throughout the top 100 MSAs, as well as in some MSAs that are outside the top 150. For example:

- At least 4 CLECs have deployed switches and at least 20 have obtained collocation in each of 20 MSAs in SBC's region that are in the top 50 nationally.
- At least 9 CLECs have deployed switches in 19 out of these MSAs.
- Almost 3/5 of all wire centers in these MSAs house at least 2 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

In the 40 MSAs that are in the top 100 nationally, the story is much the same:

- 35 of these MSAs house at least 4 CLEC switches;
- At least 10 CLECs have obtained collocation in 36 of the 40.
- More than half of the wire centers house at least 2 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

II. The Claim That CLECs Cannot Use Their Own Switches to Serve DSO Loops Defies Common Sense and Should be Rejected on its Face

Despite this widespread switch deployment and collocation, some CLECs continue to press the very argument that they made and that the Commission rejected last year – namely that CLECs cannot use their switches to serve customers with DS-0 loops. Most recently, this argument was advanced by a coalition of UNE-P users that call themselves the Counsel for Promoting Active Competition Everywhere (PACE.coalition). *See* letter from Genevieve Morelli, Kelley, Drye, and Warren, to Magalie Roman Salas, May 19, 2000. As shown below, this argument is no more compelling and no better substantiated than it was last year when the Commission rejected it.

Before addressing the specifics of PACE's arguments, SBC must emphasize two points.

First, the central premise of PACE's position is that switch-based competition for customers with DS-0 loops is *inherently* impossible "due to the cost, complexity and delay inherent in manual processing."[1] It thus claims, in effect, that the central goal of

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[1] *See* PACE *ex parte* at 1: "Manual migrations cannot effectively support broad-based local competition due to the cost, complexity and delay inherent in manual processing." *See id.* at 2: "Because of provisioning barriers, CLEC-provided local

the 1996 Act – facilities-based competition – is unreachable for all but the highest volume customers. SBC rejects that premise and it believes the Commission does, as well.

Second, as a matter of plain common sense, PACE's position is untenable. As SBC pointed out in its Comments, CLECs have now deployed in excess of 1100 circuit switches nationwide, and for the past 2 years, they have been deploying circuit switches at a rate of a switch a day. They also, of course, have been deploying packet switches at a rapid clip. If, as PACE contends, CLECs can use their switches only for the small minority of customers with DS-1 and above loops, then clearly – as a matter of plain common sense - CLECs would not be deploying so many of their own switches.

Nor would AT&T have invested in excess of $100 billion in cable telephony if a manual conversion process were, as PACE contends, inherently incompatible with mass market competition. In fact, the conversion of a customer to cable telephony is far more expensive and labor intensive than the hot-cut process.[2] If the hot cut process impairs CLECs from using their own switches, then AT&T's strategy would have to be a colossal mistake.

III. PACE Misstates the Facts and Misapplies the Law

The only evidence PACE offers in support of its claim that "manual migrations cannot effectively support broad-based local competition" is (1) a short table that purports to compare the cost of UNE-P conversion with the cost of a hot cut in 4 states; and (2) data showing that there are more orders for the UNE-P in New York than for unbundled local loops. This "evidence" does not come close to supporting the conclusions PACE asks the Commission to draw.

A. Comparative Migration Costs

PACE's argument that CLECs are impaired without access to the UNE-P because of the relative cost of a hot cut versus a UNE-P migration is deficient for a number of reasons.

First, the data PACE presents on the comparative cost of a UNE-P conversion and a hot cut lacks probative value. While SBC has not checked PACE's data on Georgia, Florida,

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switching is effectively limited to serving customers with "design services." *See also* Birch Telecom Reply at 7: ("There is no customer line size at which it is economical to serve a customer through individual DS-0 loops and self-provisioned switching.")

[2] A cable telephony conversion does not merely require a significant amount of manual work, it requires a site visit to the customer's premises to install a cable splitter and then to cross-connect the inside wire. *See* letter from Robert Quinn, Jr., Director-Federal Government Affairs, AT&T, to Magalie Roman Salas, Secretary, FCC, Nov. 17, 1998, filed in CS Docket No. 98-178.

or New York, its data both as to the cost of a hot cut and a UNE-P conversion in Michigan is wrong. And even assuming *arguendo* that the data for the other states is correct, PACE makes no effort to explain why it is representative of the industry as a whole.

Certainly, those rates are not representative of the rates in the SBC region. While PACE suggests that hot cut costs typically range from $36 to $178 per line, the cost of a typical hot cut in the SBC region is likely to be at or below the low-end of that range. ***See* Attachment B for a chart showing hot cut costs for 8 states in the SBC region with at least one MSA in the top 50.** The Southwestern Bell companies and Pacific Bell all have waived the labor charges associated with Frame Due Time (FDT) hot cuts.[3] As shown in Attachment B, an FDT hot cut typically costs on average about $30 per line (taking into account all nonrecurring and service order charges). Moreover, CLECs increasingly are availing themselves of this option. Whereas in December 1999, fewer than half of the hot cuts performed by SWBT were FDT hot cuts, that number has since risen steadily – to 66% in Texas by May 2000. ***See* Attachment C.**

To the extent CLECs choose the option of a coordinated hot cut, rather than an FDT hot cut, they are charged for the labor used in that process. If, as is most often the case, the hot cut involves multiple lines, though, this labor charge would be spread among all of those lines – thereby reducing the per-line labor cost.

To illustrate, SBC would typically complete an order for 4 lines within 15 minutes. In Texas, labor charges are assessed on a quarter-hour basis; in all other SBC states on a half-hour basis. Thus, taking the quarter-hour rate for Texas and the half-hour rate for the other 7 SBC states included in the analysis, the total cost of a four-line coordinated hot cut (inclusive of all non-recurring and other charges) would range from about $13.79 to a maximum of $51.97 per line. For a 2-line hot cut, the cost would range from about $15.78 to $80.16 per line. The average charge for a 3-line order, assuming CHC rates, is $35.31 per line. The average charge for a 2-line order, assuming CHC rates, is $41.05. In contrast, the average charge for a single line order is $64.63 per line.

Of course, the exact time it takes to implement an order will vary, depending upon the circumstances and the number of lines. Clearly, though, the per-line cost of a typical hot cut, particularly for customers who are cutting over more than one line, is far less than PACE suggests.[4]

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[3] SWBT and Pacific Bell offer CLECs two hot cut options: the coordinated hot cut and the FDT hot cut. Under the FDT option, a CLEC specifies the time and date it wishes the hot cut to take place and SWBT automatically effects the hot cut within one hour of that specification. No further coordination is necessary. For coordinated hot cuts, the SBC and CLEC technicians coordinate as the hot cut is implemented. SNET also offers an FDT option, but data for SNET is not provided in this filing.

[4] In its Reply, Birch Telecom states that "[b]ecause [hot cut] costs are incurred on a per-loop basis, this barrier is just as severe at the 10th, 20th, or 30th loop as it is at the first

Not only does PACE overstate the cost of a hot cut, it understates the cost of a UNE-P conversion. In particular, it appears that PACE has omitted and/or understated various non-recurring charges in its calculations.[5] For example, service order charges for UNE-P conversions average about $30 in some of the Ameritech states – a number that is inconsistent with PACE's claim that UNE-P migration costs range from $0.35 to $3.82. Thus the real cost difference between a hot cut conversion and a UNE-P conversion is far less than PACE maintains.

Second, even assuming that a hot cut cost more than a UNE-P conversion, that cost differential does not in and of itself establish impairment. It simply means that one cost component of self-provisioned switching is higher than the corresponding cost for the UNE-P. In fact, PACE's argument is flagrantly inconsistent with the very crux of the Supreme Court's decision. If there is one message that came through loud and clear in that decision, it is that higher costs, in and of themselves, do not constitute impairment. That was the point of the Court's discussion of ladders and lightbulbs, wherein the Court noted that if a person could change a lightbulb by standing on a stack of books and fully extending his arm, he was not impaired without access to a ladder that would make the job easier.

PACE's emphasis on hot cut costs is particularly thin given that, in the *UNE Remand Order*, the Commission disregarded far more comprehensive evidence regarding the viability of self-provided switching. In particular, it disregarded a study submitted by Ameritech showing that CLECs could recover their *total* costs of using their own switch (and transport) based on the revenues they could reasonably anticipate.[6] Given that the Commission rejected the use of models evaluating *total costs* with reference to *total revenues*, the Commission could hardly base an impairment finding on data regarding one cost component of self-provisioned switching. SBC notes that there are acquisition costs associated with all customers and that long-distance carriers have routinely offered customers up to $100 as a signing bonus (and with no guarantee that the customer will not switch back immediately after cashing their check). Certainly a hot cut charge of far

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loop." Birch Reply at n. 4. This statement is incorrect. As shown in Attachment B, the cost of a hot cut on a per-line basis declines as the number of lines in the order increases. Not only are labor and service order charges shared in orders involving multiple lines, but the non-recurring charges also may differ for the first and subsequent lines in an order.

[5] While PACE asserts that the Michigan Commission has established a $0.35 charge for UNE-P conversions, SBC does not agree. The $0.35 charge established by the MPSC replaces the line connection charges, but not applicable service order charges.

[6] While the Commission found fault with certain of the assumptions in that analysis, it rejected the analysis, not because of these particular assumptions, but because of its conclusion that this type of analysis is inherently unreliable. *See UNE Remand Order* at para. 257.

less than that does not *ipso facto* impair the ability of a CLEC to provide its own switching.

Third, PACE's claim that it is infeasible for CLECs to serve customers using DS-0 loops via a hot cut is belied by the fact that SBC alone has performed hundreds of thousands of hot cuts of DS-0 loops. Moreover, the available data shows that many, if not most, of these hot cuts were for customers with fewer than 4 lines.[7] If CLECs truly were impaired by the hot cut process in serving customers with DS-0 loops, CLECs would not – indeed, could not – have requested so many hot cuts on behalf of those very customers.

Fourth, PACE offers no new evidence here. It simply rehashes arguments that were fully considered in the *UNE Remand Order*. Indeed, in that order, the Commission expressly cited CompTel's claim that a manual hot cut costs between $59.91 and $218.62 per loop. *UNE Remand Order* at para. 266. Having considered and apparently accepted this assertion, the Commission nevertheless established a four-line cut-off. PACE has presented no reason why this very same allegation – which SBC shows herein to be incorrect in any event – now warrants an increase in the customer line cut-off.

B. # of UNE-P versus Unbundled Loop Orders

PACE additionally purports to show that, since the 4th quarter of 1998, there have been more UNE-P orders in New York than orders for unbundled loops. This data proves only that some CLECs may *prefer* the UNE-P to unbundled loops and that if, given a choice, they will avail themselves of that option. It does not show that CLECs are impaired without access to the UNE-P. Indeed, a closer analysis of the New York data *refutes* the claim that PACE advances in this proceeding. Thus, whereas CLECs served 612,000 business customers in New York over their own facilities, they served only 14,713 business lines using the UNE-P.[8] Thus, if anything, the New York data demonstrates that CLECs can and do serve business customers with their own facilities, and that they are not impaired in their ability to serve business customers without the UNE-P.

Data submitted with SBC's section 271 application for Texas confirms the point. In Texas, CLECs serve almost 1.5 million lines (presumably business) using their own facilities.[9] They serve 369,091 lines via resale, 157,700 of which are business lines, and

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[7] For the period in which hot cuts have been tracked by number of lines in California, more than 2/3 of the hot cuts have involved 3 or fewer lines. Three quarters of the hot cuts performed by SWBT involve 7 or fewer lines.

[8] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York,* CC Docket No. 99-295, FCC 99-404, released Dec. 22, 1999 at para. 14.

[9] *See* Supplemental Reply Affidavit of John S. Habeeb, submitted in *Application by SBC Communications, Inc. Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a/ Southwestern Bell Long Distance for Provision*

243,922 lines via the UNE-P.[10] Given these data, it is hard to see how the Commission could conclude, as some CLECs claim, that CLECs must rely on the UNE-P to serve customers with DS-0 loops.

C. Birch's Business Case Analysis of the Feasibility of Self-Provisioned Switching is Flawed

Incorporating a study done by Birch Telecom, PACE also purports to show that it is "economically feasible" to use a DS-1 unbundled loop and self-supplied switching in lieu of the UNE-P only for customers with 16-20 or more lines. This study is hopelessly flawed. SBC highlights just a few of these flaws below.

First, Birch's analysis blatantly ignores the most fundamental tenet of the Supreme Court's decision. As noted, one message that came through loud and clear in that decision is that increased cost or decreased profit is not, in itself, an impairment. Yet the only thing Birch purports to show is the point at which it is cheaper to use DS-1 loops and self-provisioned switching than the UNE-P.[11] In this respect, Birch asks the Commission to make the same mistake it made the first time.

SBC, of course, does not dispute that costs are relevant to an impairment analysis. But even the *total* cost of providing a service, in and of itself, says nothing about its feasibility: rather, a feasibility analysis must look at both costs and *revenues*. Birch, however, provides no information about prospective revenues. Its analysis begins and ends with a cost-comparison – and a flawed one at that.[12]

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of In-Region InterLATA Services in Texas, CC Docket No. 00-65. The precise number of lines CLECs serve using their own facilities has been disputed by some parties. While SBC believes that it has refuted these parties' claims, for present purposes the point is the same whether CLECs serve 1 million or 1.5 million lines using their own facilities. Either way, they can and do compete without the UNE-P.

[10] *Id.* SBC does not know the proportion of UNE-P lines that are business versus residential.

[11] Birch's claim that a CLEC is impaired without access to the UNE-P whenever the cost of serving a customer with its own facilities is higher than the UNE-P cost flies in the face of the Commission's conclusion that CLECs prefer to use their own facilities whenever possible and that the availability of the UNE-P would not deter carriers from deploying their own facilities. Birch seems to suggest that, not only would it prefer to use the UNE-P whenever the UNE-P is cheaper; it would be impaired if it cannot.

[12] In any event, the Commission decided in the *UNE Remand Order* that feasibility studies were, by their very nature, suspect, and on that basis, rejected an Ameritech business case model for self-provided switching and transport. *UNE Remand Order* at ¶ 257. Particularly given that the Ameritech model was considerably more rigorous than

Second, Birch includes as one cost "the actual costs incurred by Birch to establish its Kansas City collocation facility[.]" It does not reveal these costs, however, much less show that they are representative of its own or anybody else's collocation costs in general. In fact, in its Comments in the *UNE Remand Proceeding*, CompTel attached an affidavit from a Vice President of Birch complaining about collocation costs in Kansas City specifically and noting that the costs were much lower in Texas. *See* Tidwell Affidavit ¶ 5, attached to CompTel Comments. Thus, it is reasonable to assume that Birch did not use representative collocation cost figures.

Third, under the Commission's existing rules, a CLEC does not have to collocate in an end office in order to provide local service to customers in that office. It can instead purchase special access circuits and even convert those circuits to UNEs. Thus, collocation costs ought not be included at all.

Fourth, Birch's model improperly treats collocation cost as a cost that is incurred on a "loop-by-loop basis." Birch Reply at note 4. In other words, Birch assumes that additional loops impose additional collocation costs. That, of course, is incorrect. Once a CLEC obtains collocation space in a particular wire center, its collocation costs do not increase on a loop-by-loop basis. Rather, those costs are sunk, and its unit costs *decrease* as it sends more traffic to that space. In this respect, the notion that it is infeasible for a CLEC that has obtained a collocation arrangement in a particular wire center to use that space to serve customers with fewer than 16 lines is not credible.

Fifth, Birch is wrong when it contends that NRC's for unbundled loops and cross-connects are set at the same levels for single-line and multi-line orders. In the SBC states, at least, they are not. Rather, they decrease with order size. *See* Attachment B.

IV. Cross-Over Point from DS0 to DS1

Because CLECs can and do use their own switches to serve customers with DS0 loops, the cross-over point from DS0 to DS1 is not relevant to this proceeding. Nevertheless, for the record, SBC offers the following observation.

For a customer served by SBC, the cross-over from a business line to a DS-1 special access circuit varies, depending upon mileage and contract term, but it can be as little as 5 lines.

For a customer served by a CLEC, the cross-over point would also depend upon a number of factors. If, for example, the CLEC simply sought to substitute a DS1 loop for a DS0 loop, the cross-over would be based upon the relative price charged by the CLEC for a DS1 versus a DS0 loop. SBC does not have data on CLEC retail rates, but under

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the Birch feasibility study, it would be inappropriate for the Commission to give credence to the Birch feasibility study.

the T2A, the cost to a CLEC of a DS1 unbundled loop is approximately 4-6 times the cost of a DS0 loop, depending upon zone.

If, on the other hand, a CLEC seeks to substitute a DS1 loop/transport combination for a DS0 loop, based on T2A monthly charges and assuming a 10 mile DS1 interoffice transport facility, the DS1 loop/transport combination would cost about ten times the cost of a DS0 unbundled loop.[13] If the CLEC is able to combine more than one customer's traffic onto the mileage facility, the loop/transport combination would cost relatively less.

[13] In a June 13, 2000, ex parte in the above referenced docket, SBC stated that, based on T2A rates, a "DS1 loop/transport combination would cost about nine times the cost of a DSO unbundled loop."(p.9) This calculation did not include the cross-current charges. When cross-current charges are included, the DS1 loop/transport combination would cost ten times as much as a DS1 loop.

CLEC SWITCH DEPLOYMENT IS NOT LIMITED TO ZONE 1 WIRE CENTERS IN THE TOP 50 MSAs

Top 50 MSAs

An SBC affiliate is the primary ILEC in 20 of the top 50 MSAs.

# of CLECs with Switches in these MSAs

→ At least 4 different CLECs have deployed their own switches in *each* of these MSAs.[14]

→ At least 9 different CLECs have deployed their own switches in 19 of the 20.

# of CLECs with Collocation in these MSAs:

→ At least 15 different CLECs have obtained collocation in *each* of these 20 MSAs.[15]

# of CLECs with Switches and Collocation:

→ At least 3 different CLECs have a switch *and* collocation in each of these 20 MSAs.[16]

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[14] Data on CLEC switch deployment is based on NXX assignments listed in the Local Exchange Routing Guide (LERG) and includes only circuit switches. Because this data does not reflect CLEC deployment of packet switches, which can be used, and are being used today, to provide local exchange service, this data is *significantly underinclusive.* The Commission recognized in the *UNE Remand Order,* that CLECs have deployed "a substantial number of packet switches." ¶ 310. In fact, some CLECs, such as AT&T, have ceased deploying circuit switches altogether and are deploying exclusively packet switches.

[15] These data exclude collocation in so-called "collocation hotels." As the May 26 issue of *Communications Daily* suggests, collocation hotels are a growing phenomenon by which CLECs can obtain collocation without physically locating at an ILEC's facilities. ***See Exhibit 1 to this attachment.***

[16] This data shows the number of CLECs that have assigned one or more switches to at least one rate center in an MSA and have obtained at least one collocation arrangement in that MSA. That collocation arrangement need not be in the rate center to which the switch is assigned; however, CLECs can use special access circuits or UNE loop/transport combinations to haul local traffic to this collocation arrangement.

→ 58% of the wire centers in these MSAs house at least 2 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

→ More than half of the wire centers house at least 3 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

Top 100 MSAs

An SBC affiliate is the primary ILEC in 40 of the top 100 MSAs.

# of CLECs with Switches in these MSAs

→ At least 4 different CLECs have deployed their own switches in 35 of the 40 MSAs

→ At least 3 different CLECs have deployed their own switches in 38 of the 40 MSAs

→ At least 9 CLECs have deployed their own switches in several of the MSAs that are not in the top 50, including Austin (13); Ventura CA (10); Ann Arbor (10) and Vallejo (11).

# of CLECs with Collocation in these MSAs

→ At least 7 different CLECs have obtained collocation in 38 of the 40 MSAs.

→ At least 10 different CLECs have obtained collocation in 36 of the 40 MSAs.

# of CLECs with Switches and Collocation in these MSAs

→ There is at least one CLEC with a switch and collocation in 39 of the 40 MSAs (all but Youngstown, OH, #85).

→ At least 3 CLECs have a switch *and* collocation in 32 of the 40 MSAs.

→ More than half of the wire centers in the top 100 MSAs house at least 2 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

→ 48% of the wire centers house at least 3 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

Top 150 MSAs

There also is substantial competitive activity in certain MSAs outside the top 100.

E.g, in Stamford-Norwalk, CT (#145):

→ More than ¾ of the wire centers are in rate centers served by a CLEC switch

→ More than half of the wire centers house at least 3 CLECs with collocation and a switch assigned to the rate center in which the wire center is located.

In Madison, WI (#122), in five of SBC's wire centers, there are at least five CLECs with collocation and a switch assigned to the rate center containing those wire centers.

passed laws allowing access once it clears elsewhere, and "they can leverage our success," presumably along with Portland, Ore., he said.

Most ISPs seemed to believe they would get open access someday, but it was less clear such regulation would help them all move beyond dial-up offerings. "Not everyone in this room is going to qualify" technically to interconnect with cable systems, McClure warned. "You've got to find a way to become players" in broadband, he said. With smaller ISPs facing similar problems getting access to DSL despite its supposedly open regulatory status, we heard of increasing buyups by CLECs of independent ISPs. Despite the access rhetoric, "the business model in vogue" is "marrying an ISP with end-user facilities," said Dan Gonzalez, regulatory dir., NextLink, which is buying ISP Concentric. — ***Sasha Samberg-Champion***

June 13-14 Board Meetings

FRITTS NEGOTIATING NEW 5-YEAR CONTRACT AS NAB PRES.

New 5-year contract for NAB Pres. Edward Fritts, to replace current agreement of same length expiring this spring, is expected to be finalized before NAB board meetings June 13-14, according to Fritts and NAB Chmn. James Yager of Benedek Bcstg. We're told that no hitches are expected to develop. Fritts operated under one-year agreements as pres. from 1982-1995, when he agreed to first contract for 5 years. That called for compensation of $451,500 in first year of agreement (that was up to $700,008 for fiscal year ended March 31, 1999, latest figure available), plus $50,000 signing bonus, annual "health incentive" of $25,000, automobile, other benefits. It also called for Fritts to receive annual consulting fee of $25,000 until age 65 if contract was terminated by NAB.

Fritts resigned as NAB chmn. in spring of 1982 to seek presidency against nominating committee's choice Donald Thurston, also former NAB chmn. At special board meeting in Aug. in Chicago, Fritts won hotly contested race 24-20, getting all 6 of TV and radio network votes. At time, he owned 8 small radio stations (which were sold) in South and as chmn. he received $50,000 annual stipend from NAB. His first annual salary as NAB pres. was $150,000. At time he was elected pres. at age 41 (he's now 59), Fritts said he was making "a long-term commitment" to NAB — and that has turned out to be the case — subject to "annual review." Earlier this year, he surpassed late Vincent Wasilewski in length of service as NAB pres.

Meanwhile, no major or new issues are expected to surface at board meetings in Washington, with possible exception of changes in NAB bylaws. On TV side, digital TV will be major focus — as has been case for most recent semiannual meetings. Decrying delays,"we're going to talk about what we can do to get the thing [DTV] jump-started," we were told. On radio side, source said, "there's nothing but updates" on such things as LPFM and FCC's new EEO rules. Both of those issues are now before U.S. Appeals Court, D.C. Bylaws Committee met yesterday (Thurs.) with composition of board under study. Combined boards now are authorized 61 members — many of whom are appointed to special seats, as opposed to being elected. That's up from 44 directors several years back.

Only race that has developed for NAB board leadership posts is for radio chmn. between Walter May, East Ky. Bcstg., and David Kennedy, Susquehanna Radio. Election is considered more significant than usual because winner is expected to succeed Yager as NAB chmn. in June 2001. Former Radio Chmn. John Dille, Federated Media, is unopposed for radio vice chmn., as are TV Chmn. Ben Tucker, Retlaw Bcstg., and Paul Karpowicz, LIN TV, who are seeking reelection. — ***Tack Nail***

Fund Could Grow

MORGAN STANLEY STARTS $1.25 BILLION CARRIER HOTEL VENTURE

Morgan Stanley Real Estate Funds (MSREF) started venture capitalized at $1.25 billion to build and acquire telecom hotels — buildings that house telecom switching equipment. Venture already has purchased or signed agreements to buy 20 properties totaling 8.5 million sq. ft., including buildings in Montreal, N.Y.C., Seattle. CLECs, long-distance companies and Web-hosting companies are expected clients, said Michael Franco, who heads MSREF carrier-hotel initiative, and they could benefit by leasing rather than buying space to deploy their telecom equipment.

"We think the industry is very early in its formation" of building telecom hotels and facility space for all companies wanting to provide telecom services, he said. MSREF joined with Gnome Group, a telecom design-build

group, and Pioneer Global Group, controlled by the Gaw family that owns carrier hotels in U.S., in venture. MSREF expects to roll out facilities in 60-75 major cities worldwide in next 2 years, and already has relationships with more than 150 telecom companies.

MSREF is only latest to join business as other real estate ventures already are moving in same direction. TrizecHahn, which has ownership stakes in 125 buildings in N. America and Europe, acquired controlling interest in Global Switch International last month to start its own carrier-hotel business. But MSREF plans to be aggressive and build and/or acquire telecom hotels in "NFL franchise" cities and its $1.25 billion capitalization could grow bigger, Franco said: "That we view as a starting point." — ***Doug Abrahms***

Telcos Targeted

MPHASE TV TO PROVIDE NEW MEDIUM FOR CONSUMERS

AlphaStar and mPhase announced creation of mPhase TV joint venture to create global broadband TV distribution network. Network is to provide telcos with interactive TV and video content via hybrid model of satellites and standard copper wire. mPhase hopes to provide new medium to compete with cable and satellite TV. Alpha Star is one of 4 original direct-to-home (DTH) satellite TV companies — others are DirecTV, EchoStar, Primestar.

Hart Telephone of Hartwell, Ga., is first customer and test site for mPhase TV, which will become available to Hart customers June 5, AlphaStar spokesman said. Spokesman said Hart TV subscribers would receive satellite TV, data voice services and broadband quality high-speed Internet. Cost of service will be determined by individual telcos, but $100 per month national model is being used, spokesman said.

More telcos are expected to be signed after Hart Telephone service rolls out. Offering is 2nd major announcement by AlphaStar in 3 days — Tues., it announced start of new satellite internet service (CD May 23 p4). AlphaStar CEO Mahmoud Wahba said mPhase TV will "usher in a new era of TV and entertainment distribution history." He predicted 96% of U.S. would be able to get local, global TV and radio programming with local phones. He said "potential to penetrate global market is equally impressive."

Network subscribers will be able to download movies, videogames, songs, audio books or music video and receive digital TV programs on monthly subscription base or receive video-on-demand and pay-per-view options directly from local phone companies. Satellite will continuously update and refresh local telco as well as provide live feed of TV and radio channels 24 hours per day. Company says it's first TV network to integrate satellite and DSL. New services will be in addition to phone service and high-speed Internet access at same time. Radio, paging and community access programming also will be available.

Telcos will be able to offer subscribers satellite TV without "expense and inconvenience" of installing satellite dish at customer's home because content will be delivered from telco central office to subscribers over existing twisted pair, mPhase said. No additional infrastructure upgrade expense is necessary, spokesman said. AlphaStar Teleport in Oxford, Conn., is receiving broadcasting and streaming feeds from Ku-, Ka- and C-band satellites and VSat and wireless networks.

Bullish on idea is Michelle Abraham, senior analyst at Cahners In-Stat Group: "The market for broadband services will continue to grow significantly over the next several years. Companies that can package value-added services such as interactive content and e-commerce will be well-positioned to seize a primary foothold in this burgeoning market." — ***Bruce Branch***

COMM DAILY® NOTEBOOK

Communications companies and trade groups warmly praised full House for approving permanent normal trade relations with China Wed. and strongly urged Senate to do same. In separate statements, MPAA Pres. Jack Valenti, Starz Encore Group Chmn. John Sie and Telecom Industry Assn. said passage of legisla-

Communications Daily observes Memorial Day holiday Mon., May 29. Next issue will be Tues., May. 30.

HOT CUT COST (PER LINE)*

	# OF LINES				
	1	2	3	4	8
CA**	$18.88	$15.78	$14.74	$14.22	$13.44
TX**	$22.33	$16.64	$14.74	$13.79	$12.36
MO**	$51.03	$37.41	$32.86	$30.59	$27.19
IL	$38.25	$31.67	$29.47	$28.37	$26.73
MI	$20.98	$19.40	$18.87	$18.61	$18.22
OH	$47.23	$39.12	$36.41	$35.06	$33.03
IN	$43.90	$36.62	$34.19	$32.97	$31.15
WI	$56.60	$48.35	$45.60	$44.23	$42.16
AVERAGE:	$37.40	$30.62	$28.36	$27.23	$25.54

* Reflects SBC generic rates. Interconnection agreements may include lower rates that are available through section 252(i). Rates include all labor, nonrecurring, and service order charges. Labor charges are calculated based on 1/2 hour increments in all states but Texas, where they are based on 1/4 hour increments. Assumes hot cuts of 1-4 lines can be completed in 1/4 hour in Texas and in 1/2 hour in other states) and that hot cuts of 1-8 lines can be completed in 1/2 hour.

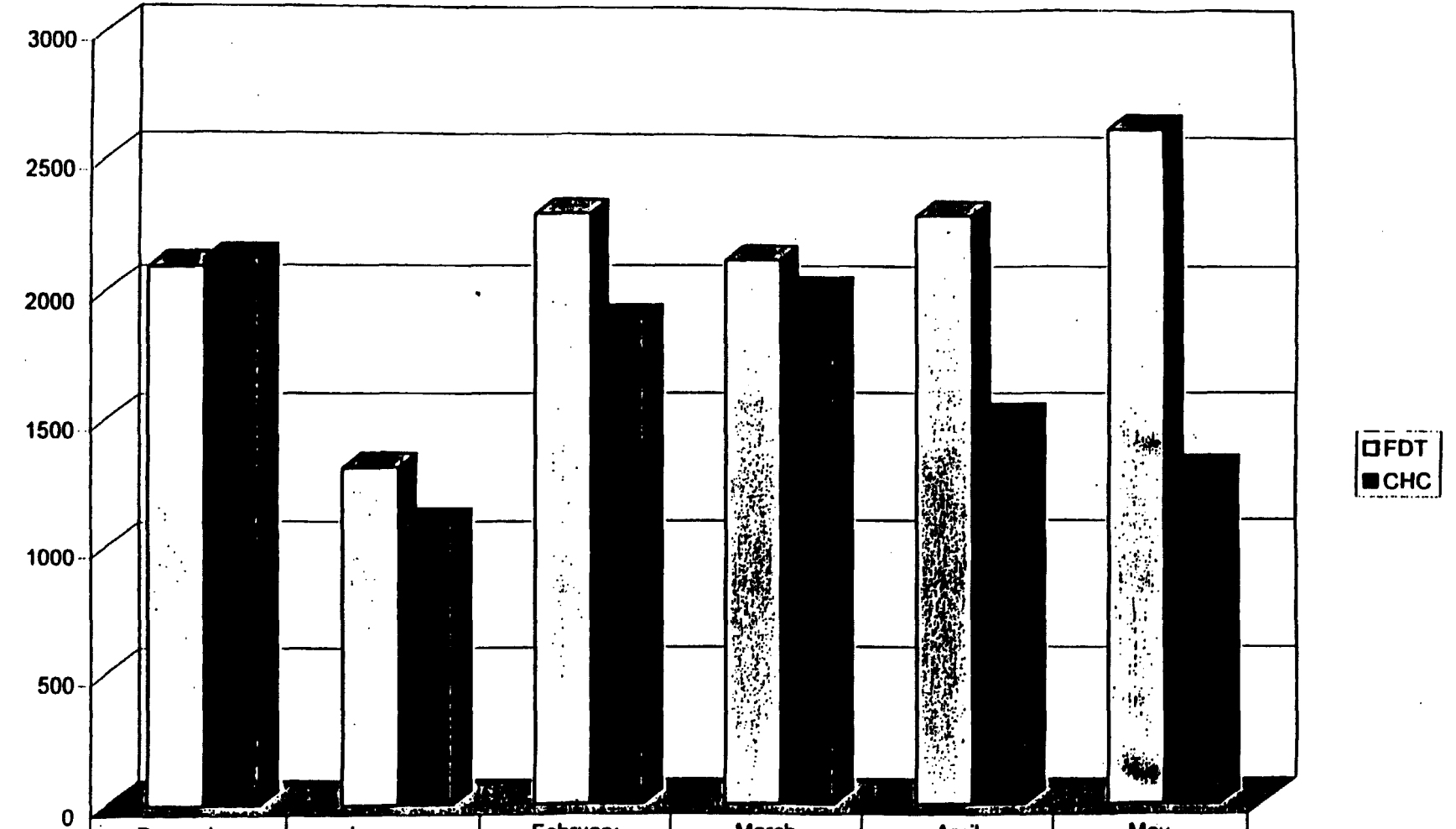
** Assumes FDT rate. Coordinated hot cut (CHC) rates include added labor charges. Counting these additional charges, in Texas, CHC rates are (on a per-line basis) $65.21 for 1-line orders; $38.08 for 2-line orders; $29.03 for 3-line orders; $24.51 for 4-line orders; and $17.72 for 8-line orders. In California, generic CHC rates are $57.28 for a 1-line order; $34.98 for a 2-line order; $27.54 for a 3-line order; $23.82 for a 4-line order; and $18.25 for an 8-line order. In Missouri, CHC rates are $136.53 for a 1-line order; $80.16 for a 2-line order; $61.36 for a 3-line order; $51.97 for a 4-line order; and $37.87 for an 8-line order. A mega-arbitration addressing, *inter alia,* charges associated with the hot cut process is pending.

WEIGHTED AVERAGE HOT CUT COST
PER LINE FOR STATES WITH FDT OPTION*

	1	2	3	4	8
CA	$31.68	$22.18	$19.01	$17.42	$15.04
TX	$36.62	$23.79	$19.50	$17.36	$14.15
MO	$79.53	$51.66	$42.36	$37.72	$30.75

* Assumes 2/3 of hot cuts are FDT hot cuts and 1/3 are CHC hot cuts at generic rates.

Number of Lines Provisioned December - May (May is unofficial for May 1-25) CHC vs. FDT



	December	January	February	March	April	May
FDT	2096	1311	2296	2119	2295	2629
CHC	2127	1094	1890	1998	1500	1298

Attachment C